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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,540	09/06/2000	David Tomanek	6550-000017	4174

7590 10/28/2005  
Harness Dickey & Pierce  
P O Box 828  
Bloomfield Hills, MI 48303

EXAMINER
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BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/601,540	TOMANEK ET AL.	
	Examiner	Art Unit	
	James R. Brittain	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,24-29,35,36,39-42,44-51,57,58,61-65,70,71,73 and 85-87 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-29,44-51 and 85-87 is/are allowed.
- 6) ☒ Claim(s) 1,35,36,39-42,57,58,61-65,70,71 and 73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

The indicated allowability of claims 1, 35, 36, 39-42, 57, 58, 61-65, 70, 71 and 73 is withdrawn in view of further review of the claim construction. Rejections based on the review of the claim construction follow.

Claims 24-29, 44-51 and 85-87 are allowed.

### ***Response to Amendment***

In view of the new grounds of rejection the finality of the rejection of the last Office action is withdrawn.

The amendment received October 12, 2005 has been entered.

### ***Claim Rejections - 35 USC § 112***

Claims 1, 35, 36, 39-42, 57, 58, 61-65, 70, 71 and 73 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected as indefinite because the term "the nanotubes" (claim 1, lines 5 and 6) lacks clear antecedent basis because nanotubes are defined on lines 2, 3 and 5. It is unclear which if any of these nanotubes are being referred to by the limitation "the nanotubes" on lines 5 and 6 of claim 1 and for this reason claim 1 is indefinite. If applicant should amend "the nanotubes" on lines 5 and 6 so as to read -- the non-linear nanotubes of the first and second fastening elements each --, then such would clarify what nanotubes are being described and would obviate the rejection of claim 1. Claims 35 and 57 are rejected as being indefinite because a microfastener is claimed yet no capability is described to perform this function so that notice

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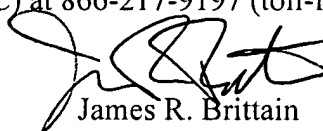
has not been served as to what structure performs the fastening function. Specifically, there is no providing -- each nanotube with a means for fastening -- so that the nanotubes have the capability of the "microfastener" claimed in the preamble. If applicant should amend claims 35 and 57 to incorporate the language -- each nanotube with a means for fastening -- then such amendment would obviate this rejection. The remaining claims are indefinite because they depend from indefinite claims.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB